

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2021

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P No.6029 of 2021

and

Crl.M.P No.3947 of 2021

Jayakumar ...Petitioner/7th Accused(A-7)

vs.

1. State by
The Inspector of Police,
Karumalaikoodal Police Station,
Salem District.
(Crime No.82 of 2017) ...1st Respondent/Complainant

2.Kalaiarasan, ...2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the case in Crime No.82 of 2021, on the file of the 1st respondent Police and quash the same.

For Petitioner : Mr.S.C.Vishwanth

For R1 : Mr.C.Raghavan
Government Advocate (Criminal Side)

ORDER

On consent given by either side, the main case itself is taken up for final hearing.

2.This petition has been filed seeking to quash the F.I.R. in Crime No.82 of 2017, pending on the file of the first respondent.

3.The case of the prosecution is that an IMFL shop was located in an objectionable place and this was opposed by the aggrieved ladies, who were already suffering battering in the hands of their respective alcoholic husbands. In spite of their objections, the officials decided to locate the IMFL shop in the

objectionable place and this led to quarrel and damage to the property due to stone pelting. The Salesman of the IMFL shop has given a complaint and based on the same, an F.I.R has been registered by the respondent Police for offence under Sections 147, 148, 294(b), 353, 506(2) and 3(1) IPC.

4.The petitioner has been arrayed as A7 in the F.I.R and the grievance of the petitioner is that he has been made as an accused without any basis and only on the ground that he was present in the scene of occurrence.

5.Heard Mr.S.C.Vishwanth, learned counsel for the petitioner and Mr.C.Raghavan, learned Government Advocate appearing on behalf of the first respondent.

6.The learned Government Advocate on instructions submitted that the investigation has been completed and a final report was filed before the concerned Court on 26.10.2017 and the same has not been taken on file.

7.This Court has carefully considered the submissions made on either side and the materials available on record.

8.In the considered view of this Court, ten ladies, who were opposing the location of an IMFL shop in the objectionable place, questioned the authorities and ventilated their grievance by pelting stones on the shop. The respondent Police while registering the F.I.R. have also added Section 353 of Indian Penal Code on the ground that the salesman, who was selling liquor was performing a public duty. This is the extent to which public duty has now been expanded by the State.

9.Establishing TASMAC shops as a source of income may be the policy decision of the Government. However, people who suffer due to the consequences of the TASMAC shops also have equal rights to oppose the same. In the present case, the location of the shop was in an objectionable place and the ladies had opposed it by using some force. Immediately, the same resulted in a police complaint and a final report was also filed before the concerned court with an astonishing speed.

10.In the considered view of this Court, the act committed by the accused persons can be brought under the general exceptions under Chapter IV of Indian Penal Code and it can be specifically brought under Section 95 of Indian Penal Code. All those acts, which fall under general exceptions is not considered to be an offence.

11.In view of the above, this Court has absolutely no hesitation to quash the F.I.R in Crime No.82 of 2017, on the

file of the first respondent Police and it is quashed in entirety, insofar as all the accused persons are concerned.

12. Accordingly, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police,
Karumalaikoodal Police Station,
Salem District.
(Crime No.82 of 2017)

2. The Public Prosecutor,
High Court of Madras,
Madras.

+1cc to M/s. S.C.Vishwanth, Advocate, S.R.No.20979

Crl.O.P No.6029 of 2021

SSN(CO)
RN(04/05/2021)

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